

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ROCK VAULT TOURS, INC.,  
Plaintiff,  
vs.  
JOHN PAYNE,  
Defendant.

Case No. 2:15-cv-01863-JCM-GWF

**ORDER**

**Motion for Leave to File Surreply  
(#22)**

This matter is before the Court on Plaintiff Rock Vault Tours, Inc.'s Motion for Leave to File Surreply (#22), filed on December 8, 2015. Defendant, John Payne, filed his Opposition (#23) on December 8, 2015. Thereafter, Plaintiff filed its Reply (#26) on December 9, 2015.

Also before the Court is Defendant's Motion to Strike Plaintiff's Surreply in Opposition to Defendant's Motion to Dismiss (#25).

Plaintiff requests that it be allowed to file a three (3) page surreply in response to an alleged new argument raised in Defendant's Reply to Plaintiff's Opposition to his Motion to Dismiss (#19). Specifically, Plaintiff objects to Defendant's argument that Plaintiff only has a non-exclusive license, and as such does not have standing to bring a cause of action for copyright infringement. Defendant asserts that his Reply (#19) merely expands on this argument, which he claims was raised in his Motion to Dismiss (#10). Rather, Defendant represents that he only cited additional authority in his Reply (#19) in support of that argument. The Court finds that the arguments addressed in Defendant's Reply (#19) were not adequately developed in his Motion to Dismiss (#10).

Accordingly,

**IT IS HEREBY ORDERED** that Plaintiff Rock Vault Tours, Inc.'s Motion for Leave to File Surreply (#22) is **granted**. Plaintiff may file a three (3) page surreply that addresses

1 Defendant's argument that Plaintiff only has a non-exclusive license, and as such does not have  
2 standing to bring a cause of action for copyright infringement.

3 **IT IS FURTHER ORDERED** that Defendant, John Payne, may file a three (3) page  
4 response to Plaintiff's surreply within the time prescribed by the Federal Rules of Civil Procedure.

5 **IT IS FURTHER ORDERED** that Defendant's Motion to Strike Plaintiff's Surreply in  
6 Opposition to Defendant's Motion to Dismiss (#25) is **denied**.

7 DATED this 17th day of December, 2015.

8   
9 GEORGE FOLEY, JR.  
10 United States Magistrate Judge